

**KIRKLAND & ELLIS LLP**

AND AFFILIATED PARTNERSHIPS

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January 28, 2005

**VIA FACSIMILE**

Lesley F. Wolf  
ROPES & GRAY LLP  
One International Place  
Boston, MA 02110-2624

**Re: Braun GmbH v. Rayovac Corporation, Case No. 1-03-cv-12428-WGY**

Dear Lesley:

Thanks for speaking with us this past Wednesday. As we discussed, there are several issues that we would appreciate you following up on.

*First*, we appreciate you checking on the dates in late February which would be convenient for depositions in Germany. It seems most efficient to schedule approximately four depositions that week -- Mr. Braun and Dr. Pahl being two of them. To the extent that you can address the document production issues set forth below shortly, we will then identify additional individuals. In terms of location, we are happy to discuss what is most convenient for the parties, and are willing to host the depositions at our office in Munich. Thereafter, as we discussed, it is likely most cost effective for both parties if depositions of Braun employees occur in the United States.

Relatedly, B003074-003076 appears to be a prototype of a shaver cleaning system developed by Dr. Pahl and/or Mr. Braun. To the extent that Braun still possesses this prototype, we request the opportunity to inspect it (and any other prototypes) when we are in Germany.

*Second*, there are a number of documents that we believe are likely in Braun's possession which have not been produced. The following list identifies particular categories of documents:

- B 000861ENG is a memoranda from Dr. Pahl which references enclosures. We do not believe that we have these enclosures.
- B 003204-3241 is a Japanese patent application which appears to be a counterpart of at least one of the patents-in-suit. We, however, do not believe that we have its prosecution history. To the extent that Braun has obtained translations of the

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Japanese patent application or its prosecution history, we request production of such translations as well.

- B 002043-44 appears to be a timeline generated in December 2003 detailing the development of shaver cleaning systems at Braun and elsewhere from the 1950's to the present. We assume the author referred to documents to create the timeline, and we request all such documents. Particular items noted on the timeline are:

- B 002043 references a "cleaning box/sink."
- B 002043 also references a "Cleaning with water. Test at Braun" in 1965.
- Similarly, B 002044 references "Test at Braun NR 771203."
- B 002044 references market research on cleaning habits for shavers
- B 002044 also references tests done by Panasonic and Phillips in the mid-80's regarding "cleaning with water."
- B 002044 also references two prototypes by Mr. Braun and Dr. Pahl, one in 1990 and the other in approximately 1994.
- More generally, the timeline indicates that Mr. Braun and Dr. Pahl worked together on cleaning systems from 1990-1994. We have, however, seen very little communication between the two men in that time frame.
- B 002044 also references Fresenius hygiene studies related to shaver cleaning.
- B 002044 also references Phillips' Washable Quadra Action.
- Please produce all documents (internal and external) relating to the launch of the Syncro System in first in Japan and then the United States.
- Please produce all documents regarding the "shaking beaker" identified in Gebhard Braun's 7/22/93 Invention Application at B001071ENG.

While we have specified particular documents where we can, we would appreciate it if Braun double checked its files for responsive documents. In large part, Braun's production appears to constitute attorney files (*e.g.*, U.S. and European prosecution histories). The timeline noted above reflects several years of work by numerous Braun employees on the Syncro System, and we believe such design and development documents are responsive to many

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of our document requests. Individuals who likely authored and/or received responsive documents include Jurgen Hoesser, Peter Schneider, Roland Uhlmann, Gilbert Greaves, Alf Jahn, Norbert Kreutz, Thomas Schamberg, Norbert Smetana, and individuals with the last names Littman and Greubel (identified at B 002045). For such individuals, please advise as well whether we will need to pursue discovery through the Hague Convention to the extent that we find it necessary.

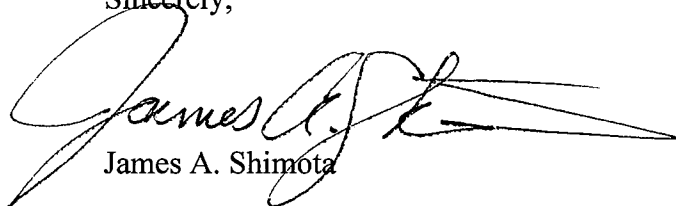
*Third*, we discussed our concern that Braun may have inadvertently produced partial translations of certain documents. One example is B001145ENG. We understand that you have only obtained complete translations of documents, and thank you for agreeing to look into whether all such translations have been produced to us.

*Fourth*, with respect to exchanging privilege logs, we propose February 9. Please advise if that date works for you.

*Finally*, thank you for offering to check whether we can jointly move the Court to reschedule the Markman Hearing. We are available on March 8, 9, 10, 14, 17, and 18 and April 6, 7, and 8. If necessary, we can check on additional dates as well.

Again, we appreciate your cooperation. If you have any questions, please call us.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Shimota", with a long horizontal flourish extending to the right.

James A. Shimota

JAS/ck